

**Uma Devi Vs. Nooruddin**

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**SooperKanoon Citation :** [sooperkanoon.com/753432](http://sooperkanoon.com/753432)

**Court :** Rajasthan

**Decided On :** Jul-17-2000

**Reported in :** 2000(3)WLC608; 2001(1)WLN514; 2001(2)WLN346

**Judge :** V.S. Kokje, J.

**Acts :** Rajasthan Premises (Control of Rent and Eviction) Act, 1950 - Sections 6(1 and 2)

**Appeal No. :** S.B. Civil Revision Petition No. 676 of 2000

**Appellant :** Uma Devi

**Respondent :** Nooruddin

**Advocate for Pet/Ap. :** J.S. Rastogi, Adv.

**Judgement :**

ORDER

**Kokje, J.**

1. Heard Shri J.S. Rastogi on admission. The facts of the case are that the non-petitioner-tenant has filed the suit against the petitioner-landlady for fixation of standard rent under Section 6(1) of the Rajasthan Premises (Control of Rent and Eviction) Act, 1950 (hereinafter referred as the 'Act'). In the plaint, a copy of which has been placed before the Court by the learned counsel for the petitioner, prayer

has been made to fix the standard rent at the rate of Rs. 30/- per month. The learned counsel submits that the entire suit is based on sub-section (2) of Section 6 and standard rent is sought to be fixed on the guidelines contained in clauses (a) & (b) of sub-section (2) of Section 6 of the Act. The learned counsel further submits that a Division Bench of this court in Khem Chand vs. State of Rajasthan & Anr. (1) has struck down sub-section (2) of Section 6 of the Act as ultra vires the Constitution. According to the learned counsel, therefore, the suit which is based on provisions of sub-section (2) of Section 6 should have been dismissed after hearing arguments alone and there was no need of further trial in the suit after framing issues.

(2). The Trial Court has taken the view that despite the declaration of sub-section (2) of Section 6 of the Act to be ultra vires and unconstitutional, he will still have to determine in, what was the agreed rent between the parties and what should be the standard rent. According to the learned Trial Court, the issue can be determined only after taking evidence of both the parties on the point.

(3). Having heard learned counsel for the petitioner, I do not find any force in this revision petition. Even after striking down of sub-section (2) of Section 6 of the Act, a landlord or a tenant still has a right to, institute a suit under Section 6(1) of the Act. Sub-section 92) of Section 6 of the Act provided the principles on which standard rent had to be fixed. The relevant portion of sub-section (2) of Section 6 reads as under:-

Sec. (6) 2 :-

'The Court shall, after holding such summary inquiry as it may consider just and necessary determine the standard rent for such premises and shall, in doing so, act according to the following principles, namely:-

(a) Where the premises are let for residential purposes or for any of the purposes of a public hospital, aushadhyalaya or dawakhana, a recognised educational institution, a public library or reading room or any orphanage, the standard rent shall not exceed the basic rent increased by 50% thereof, and

(b) where the premises are let for any other purpose, the standard rent shall not exceed two and a half times the basic rent thereof.'

(6). I have gone through the Division Bench decision. It appears to me that the intention of the Division Bench was to strike down the principles prescribed by sub-section (2) of Section 6 of the Act for determination of standard rent and not to do away with the necessity of fixation of standard rent altogether. It appears that inadvertently the opening words of sub-section (2) of Section 6 of the Act 'The Court shall, after holding such summary inquiry as it may consider just and necessary in determine the standard rent for such premises' have also been struck down as unconstitutional. Actually, the principles prescribed under clause (a) & (b) had to be struck down in view of the Supreme Court decision relied upon by the Division Bench.

(7). Even if, the entire sub-section 2 of Section 6 of the Act is taken to have been wiped out from the statute-book, sub-sections (1), (3), (4) & (5) still remain in force and therefore, it cannot be said that the necessity of fixing the standard rent has ceased. Even if, we read Section 6 without sub-section (2), still the standard rent has to be fixed. The only difference is that it has to be fixed not on the principles enumerated in clause (a) & (b) of sub-section (2) of Section 6, but on the guidelines provided by sub-sections (3), (4) & (5) of Section 6 of the Act. It can also be taken that the summary procedure which was applicable by virtue of the opening words of sub-section (2) of the Act shall not now be applicable and the suit shall proceed as an ordinary civil suit following the procedure prescribed by the Code of Civil Procedure for trial of civil suits.

(8). It cannot, therefore, be said that the learned Trial Court has gone wrong in ordering framing of issues in the suit in accordance with the Code of Civil Procedure. The revision petition is dismissed.